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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,800	05/31/2001	Lawrence J. Choi	1005/002	6598

7590 04/20/2004  
Michael N. Haynes  
1341 Huntersfield Close  
Keswick, VA 22947

EXAMINER

PHAM, KHANH B

ART UNIT	PAPER NUMBER
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2177

DATE MAILED: 04/20/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

09/867,800

Applicant(s)

CHOI ET AL.

Examiner

Khanh B. Pham

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2177

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. The Preliminary amendments filed November 5, 2001, January 3, 2002, and February 24, 2004 have been entered. The specification has been amended.

### *Specification*

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
3. The specification is objected to because of the following informality: misspelled word "olume" at line 16, page 15.
4. Claim 2 is objected to because of the following informalities: It is unclear how the limitation of claim 2 is incorporated into claim 1. Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1-6, 8-10 are rejected under 35 U.S.C. 102(b)** as being anticipated by Trindade ("Survey Data: Use of Scatter Plots for Displaying Scale and Consistency Factors", 1995), hereinafter "Trindade".

**As per claims 1, 9, 10**, Trindade teaches a computer-assisted method, and an apparatus for determining a potential effectiveness of a survey question, comprising the activities of:

- “segregating a plurality of responses to a survey question into a plurality of categories” at page 99, Col.1, 2<sup>nd</sup> paragraph.
- “determining a response distribution for each of the plurality of categories” at Figs.1, 2;
- “calculating a box score and a difference score for the survey question from the response distributions at page 100, sections 3, 4.
- “using the box score and the difference score to obtain an effectiveness score for the survey question” at page 100, section 3, 4.

**As per claim 2**, Trindade teaches the method of claim 1, further comprises: “evaluating the survey question based on the effectiveness score” at page 99, Col. 1, 1<sup>st</sup> paragraph.

**As per claim 3**, Trindade teaches the method of claim 1, wherein the “plurality of categories are top 2 box categories” at page 99, Col. 2, 3<sup>rd</sup> paragraph.

**As per claim 4**, Trindade teaches the method of claim 1, wherein the “plurality of categories are top 3 box categories” at page 99, Col. 2.

**As per claim 5**, Trindade teaches the method of claim 1, wherein “the response distribution for a category can be determined by dividing a number of responses associated with the category by a total number of plurality of response” at page 99, Col. 2, 3<sup>rd</sup> paragraph.

**As per claim 6**, Trindade teaches the method of claim 1, wherein "the box score can be calculated by adding a top box response percent to a bottom box response percent, subtracting an ideal distribution of neutrals percent, and multiplying an absolute value of a result by 100" at page 99, Col. 2 and page 100, Col. 2, 1<sup>st</sup> and 2<sup>nd</sup> paragraphs.

**As per claim 8**, Trindade teaches the method of claim 1, wherein: "the box score can be added to the different score to obtain the effectiveness score" at page 99, Col. 2.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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9. **Claims 7 rejected under 35 U.S.C. 103(a)** as being unpatentable over Trindade as applied to claims above, and in view of Johnson et al. ("Effects of Question Context and Response Order on Attitude Questions", 1998), hereinafter "Johnson".

**As per claim 7**, Trindade teaches the method of claim 1 as discussed above.

Trindade use different formula to calculate Box score and different score, and therefore does not teach "the different score can be calculated by subtracting a bottom box response percent form a top box response percent and multiplying an absolute value of a result by 100" as claimed. However, Johnson teaches a similar method for evaluation survey response comprising the step of calculate the different score "by subtracting a bottom box response percent form a top box response percent and multiplying an absolute value of a result by 100" at page 859, table 1. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Johnson and Trindade's teaching in order to provide an effective method for evaluation survey question and increase the consistency of the responses.

### ***Conclusion***

10. The prior art made of record, listed on form PTO-892, and not relied upon, if any, is considered pertinent to applicant's disclosure.

If a reference indicated as being mailed on PTO-FORM 892 has not been enclosed in this action, please contact Lisa Craney whose telephone number is **(703) 305-9601** for faster service.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khanh B. Pham whose telephone number is (703) 308-7299. The examiner can normally be reached on Monday through Friday 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E Breene can be reached on (703) 305-9790. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Khanh B. Pham  
Examiner  
Art Unit 2177

KBP  
April 16, 2004

  
SRIRAMA CHANNAYAJJALA  
PRIMARY EXAMINER